

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

| | | |
|---------------------------|---|---------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:06-CR-472 RWS |
| |) | |
| EARNEST WILLIAMS, |) | |
| |) | |
| Defendant, |) | |

MEMORANDUM AND ORDER

This matter is before me on defendant's motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2). The motion is denied.

Section 3582(c)(2) provides that,

in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

Defendant pled guilty to conspiracy to distribute and possession with intent to distribute in excess of one kilogram of heroin. I sentenced him to 117 months' imprisonment. His sentence was enhanced under U.S.S.G. § 4B1.1 because he had two prior controlled substance offenses.

Defendant maintains that the United States Sentencing Commission released a report on July 30, 2016, recommending "that Congress Act [sic] to ensure that non-violent drug offenders are no-longer [sic] sentenced as Career Offenders under the Federal Sentencing Guidelines." He believes that the report offers him sentencing relief. He is incorrect.

There are no retroactive Amendments to the Guideline that lower defendant's sentencing range. Moreover, the holding in *Johnson v. United States*, 135 S.Ct. 2551 (2015), is inapplicable because defendant's sentence was not enhanced because of a prior crime of violence. As a result, the motion is denied.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**. [ECF No. 122]

Dated this 10th day of August, 2016.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", is written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE